



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0777	Title:	Revise ballot issue laws
Primary Sponsor:	Butcher, Edward B	Status:	As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$22,880	\$0	\$22,880	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$22,880)</u>	<u>\$0</u>	<u>(\$22,880)</u>	<u>\$0</u>

FISCAL ANALYSIS

Assumptions:

Legislative Branch - Legislative Services Division (LSD)

1. Under HB 777 as introduced, the responsibility to prepare statements of purpose, statements of implication, and explanatory statements as they relate to ballot measures is removed from the Attorney General's Office and placed in the Legislative Services Division (LSD).
2. The Legislative Services Division would absorb the increased workload related to the statements within existing staff resources and operational budgets.
3. It is assumed that three legal challenges to the statements of purpose, the statements of implication, or the explanatory statements prepared by the division will be filed each election cycle. Under the bill the challenges will be in the Montana Supreme Court. Preparation of legal defense will require a commitment of two staff attorneys for up to three months each election cycle.
4. For legal challenges filed during the 2008 election cycle, the LSD will commit staff attorneys from within existing staff resources although a significant increase in compensatory time earned by legal staff is anticipated. The division will re-evaluate the need for additional staff prior to submittal of the budget for the following biennium.

- The LSD does not have legal secretarial staff and would contract for temporary legal secretarial support for six months each election cycle at a cost of \$22,880.

Legislative Branch - Legislative Fiscal Division (LFD)

- Under HB 777, statutory responsibilities related to preparation of fiscal statements is removed from the Attorney General's Office and placed in the Legislative Fiscal Division (LFD). The responsibility to prepare fiscal notes is removed from the Office of Budget and Program Planning but is not reassigned in this bill (see technical note 5a).
- Each fiscal explanation, if prepared in coordination with a fiscal analysis, would require an average of 80 hours to complete. Depending on the nature of the ballot measure, the division may be unable to gather sufficient data within the 21-day requirement period to perform a complete analysis.
- The additional work related to the preparation of fiscal statements would be performed by existing staff. The additional duties will significantly limit the discretion of the Legislative Finance Committee in its prioritization of LFD duties and projects. In addition, it may adversely affect the division's ability to respond to legislative requests during the time period when ballot measures are being processed.

Department of Justice (DOJ)

- The department does not have staff dedicated specifically or solely to these responsibilities and addresses them on an as needed bases, therefore the bill would not reduce any costs in the department.

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
<u>Legislative Branch</u>				
<u>Expenditures:</u>				
Operating Expenses	\$22,880	\$0	\$22,880	\$0
<u>Funding of Expenditures:</u>				
General Fund (01)	\$22,880	\$0	\$22,880	\$0
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$22,880)	\$0	(\$22,880)	\$0

Technical Notes:

- The question of unlawful delegation of authority, raised by the code commissioner during the drafting of the bill, remains an issue.
- Section 5 of the bill requires the LSD to prepare a statement of purpose within the same 14 days given for initial review of the proposed text of the measure. There is no deadline in law for responding to recommendations concerning the text of the measure. Therefore, a statement of purpose prepared at this point would be based on proposed text and may not accurately reflect the final text of the measure.
- Section 10 of the bill requires the LSD seek public input to develop the statement of purpose. The 14-day deadline discussed in #2 does not allow the LSD to comply with section 10.
- Section 5 of the bill also requires the LSD to prepare statements of implication (which explain the implications of a vote for or against the measure) within 21 days of receiving the proposed text. Statements of implication prepared at this point would be based on proposed text and may not accurately

reflect the final text of the measure because there is no deadline in law for responding to recommendations concerning the text of the measure.

5. Section 5 of the bill requires the LFD to provide a fiscal explanation of the bill, as provided in section 10, within 21 days of the proposed text being submitted to the LSD. There are two technical issues related to the requirement:
 - a. Section 10 requires a fiscal statement only “if a fiscal note was prepared” yet there is no requirement for preparation of a fiscal note in the bill text. A fiscal note or analysis would provide the basis for the fiscal statement to be prepared.
 - b. Preparation of a fiscal explanation within the 21-day deadline requires the fiscal information be based on the text of the measure as it was initially proposed. A fiscal explanation prepared at this point may not accurately reflect the final text of the measure.

Sponsor's Initials

Date

Budget Director's Initials

Date